

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 9:23-CV-81150-RLR**

ANDREW TATE & TRISTAN TATE

Plaintiffs,

v.

EMMA GABBEY, et al.,

Defendants,

**PLAINTIFFS' SURRESPONSE TO DEFENDANTS' REPLY TO PLAINTIFF'S
OPPOSITION TO DEFENDANT'S MOTION TO PROCEED UNDER
PSEUDONYM**

Thomas Maniotis and Joseph D. McBride, attorneys of record for Andrew and Tristan Tate, Plaintiffs in the above-captioned case, respectfully submit the following SURRESPONSE to DEFENDANTS' REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO PROCEED UNDER PSEUDONYM (ECF No. 41)

Under the Model Rule of Professional Conduct 1.3, a lawyer has a duty to “act with reasonable diligence and promptness in representing a client.” Model Rules of Prof'l. Conduct R. 1.3. The comment to the Rule elaborates that a lawyer “should pursue ... whatever lawful and ethical measures are required to vindicate a client's cause or endeavor.” *See* ABA, Rule 1.3 Diligence – Comment. Moreover, “[a] lawyer must also act with commitment and dedication to the interests of the client and with *zeal* in advocacy upon the client's behalf.” *Id.* [Emphasis added.] The comment further expounds that “a lawyer may have authority *to exercise professional discretion* in determining the means by which a matter should be pursued.” *Id.*

That element of personal discretion relies on the all-important nature of the attorney-client relationship. Model Rule 1.4(a)(2) states that a lawyer must “reasonably consult with the client

about the means by which the client’s objectives are to be accomplished.” *See* Model Rules of Prof’l. Conduct R. 1.4(a)(2). The comment to the Rule explains that as part of the consultation process, lawyers must discuss with their clients “the means to be used to accomplish the client’s objectives.” *See* ABA, Rule 1.4 Communication – Comment.

In the seminal decision, *Gentile v. State Bar of Nevada*, the Supreme Court held:

An attorney's duties **do not begin inside the courtroom door**. He or she **cannot ignore the practical implications of a legal proceeding** for the client. Just as an attorney may recommend a plea bargain or civil settlement to avoid the adverse consequences of a possible loss after trial, so too an attorney **may take reasonable steps to defend a client’s reputation and reduce the adverse consequences** of indictment, especially in the face of a prosecution deemed unjust or commenced with improper motives. A defense attorney may pursue lawful strategies to obtain dismissal of an indictment or reduction of charges, **including an attempt to demonstrate in the court of public opinion** that the client does not deserve to be tried. 501 U.S. 1030 (1991). [Emphasis added.]

In accordance with the Supreme Court’s well-established precedent that preserved an attorney’s right to determine trial strategy and to defend their clients in the court of public opinion, we reserve, highlight, and invoke our rights as Andrew and Tristan Tate’s attorneys to speak to the media as part of our litigation strategy, within the boundaries of the law, to accomplish our client’s objectives, best interests, and counterbalance the onslaught of misinformation that has tarnished Plaintiffs’ reputations and right to a fair trial, for the past two years.

Not doing so would not only violate our responsibilities owed to Andrew and Tristan Tate to advocate for their interests zealously but, even more crucially, introduce further prejudice into a trial that has already been perhaps irremediably tainted by a relentless, and well-funded assault of groundless, defamatory negative publicity from the Defense and their attorneys, to silence our clients permanently.

For Ms. Pinter to claim that “[t]he Plaintiffs have filed this case in bad faith to intimidate the witnesses in their criminal case in Romania [by] ... using this present case to publish highly sensitive and private sexual information ... to humiliate and harass them” is patently ridiculous.

The following represents just a partial list of the instances of countless, baseless, defamatory attacks from a highly sophisticated and well-organized Public Relations campaign aided and abetted by Defendants and their counsel with the goal of scapegoating – and ultimately, silencing – our clients.

- “Inside the violent, misogynistic world of TikTok’s new star, Andrew Tate”
(*The Guardian*)¹
- “Andrew Tate charged with rape and human trafficking” (BBC) ²
- “ADL’s Glossary of Extremism: Andrew Tate” (*Anti-Defamation League*)³

¹ Das, Shanti, *The Guardian* (Aug. 6, 2022), <https://www.theguardian.com/technology/2022/aug/06/andrew-tate-violent-misogynistic-world-of-tiktok-new-star>.

² Lucy Williamson & George Wright, BBC News (June 21, 2023), <https://www.bbc.com/news/world-europe-65959097>.

³ Glossary of Extremism, Andrew Tate, Anti-Defamation League (last accessed Sept. 15, 2023), <https://extremismterms.adl.org/glossary/andrew-tate>.

- “IMDB: Vice’s Explosive Andrew Tate Documentary Sells to BBC, European Broadcasters (Exclusive)” (*BBC*)⁴
- “Vice Special Report: The Dangerous Rise of Andrew Tate” (*Vice World News*)⁵
- “The internet can’t stop talking about Andrew Tate” (*NBC News*)⁶

Again, this just a snapshot of a much broader, PR campaign over the course of many months targeting our clients. Of note, the above articles were intended to scapegoat and silence our clients – even though they were not charged with any crime in the United States. This two-year media ambush is defamatory and prejudicial to our clients and their interests.

Notably, Ms. Pinter is Senior Legal Counsel for the National Center on Sexual Exploitation (“NCCSE”).⁷ Long before Romanian authorities indicted our clients, and months before we began our representation of Andrew and Tristan Tate, Ms. Pinter’s organization published defamatory and outright false statements about our clients based on nothing but hearsay, to poison the jury pool and destroy Plaintiffs’ personal and business reputations. On January 10, 2023, the NCCSE published the following notice, which is reproduced in part below, on their website:

The survivors who have started speaking out about their alleged sexual abuse and trafficking at the hands of Andrew Tate are to be commended for their bravery in coming forward. We hope that they can find healing and justice for crimes committed against them. We recognize that it can be hard road to seek justice, but they are not alone. We stand ready to assist,” said Dani Pinter, senior legal counsel for the National Center on Sexual Exploitation.

⁴ Ravindran, Manori, IMDB.com (Feb. 13, 2023), <https://www.imdb.com/news/ni63953288/>.

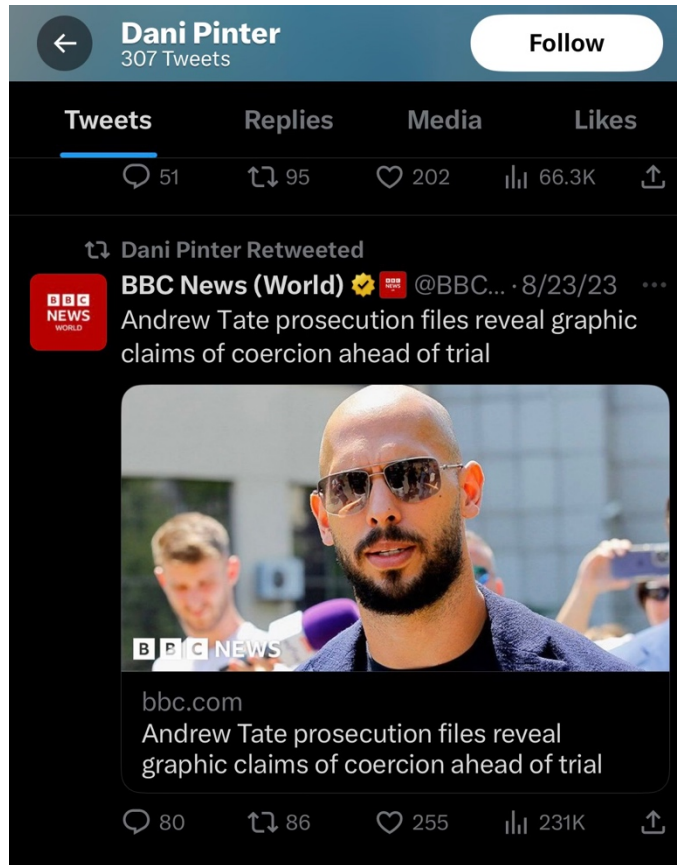
⁵ Shea, Matt, IMDB.com (last accessed Sept. 15, 2023), <https://www.imdb.com/title/tt26548298/>.

⁶ Sung, Moran, NBC News (Aug. 16, 2022), <https://www.nbcnews.com/pop-culture/viral/internet-cant-stop-talking-andrew-tate-tiktok-rcna42744>.

⁷ See Dani Pinter, Esq., Senior Legal Counsel for the NCOSE Law Center (last accessed Sept. 15, 2023), <https://endsexualexploitation.org/about/staff/dani-pinter/>.

As a survivor of the Tate brothers, I understand how difficult it can be to come forward and speak about what happened to you. But when social media gives us a glimpse into the extreme harm that others cause, I feel obligated to step forward and speak against it. By coming forward together, we may be able to find justice for ourselves and prevent these perpetrators from hurting anyone else.” – Abbreviated statement of a survivor of Andrew Tate that was read on Pool’s podcast.⁸

Furthermore, as recently as August 23rd, 2023, Ms. Pinter reposted the following tweet, which has over 231k views, from her personal “X” account from the BBC, claiming that “Andrew Tate prosecution files reveal graphic claims of coercion ahead of trial.”⁹



⁸ National Center on Sexual Exploitation: Statement, Survivors of Andrew Tate Speak Out (Jan. 10, 2023), <https://endsexualexploitation.org/articles/survivors-of-andrew-tate-speak-out/>.

⁹ See X, BBC News (World) (Aug. 23, 2023), <https://twitter.com/BBCWorld/status/1694214862799360196?s=20>.

Perhaps realizing that her social media war strategy had gone sideways, with the release of the Tucker Carlson and Candace Owens interviews, both of which quickly destroyed the ridiculous, baseless, and false narrative that Andrew and Tristan Tate had engaged in sex trafficking, or any other criminal activity. The Defense now attempts to rely on legal channels to suppress any sort of positive media coverage about our clients, or public pushback from opposing counsel. This last-ditch, bad-faith effort patently violates our clients' free speech rights and amounts to an abuse of the legal process.

Moreover, over the course of this litigation, Emma Gabbey has become a public figure. She has published music on Spotify, Apple Music, Amazon Music, and myriad other streaming platforms with massive audiences of hundreds of millions of monthly active listeners,¹⁰ under the stage name, "Dara Deville."¹¹ The lyrics of Emma Gabbey's song, "Dream," which has been published on Spotify, Apple Music, iHeart Radio, Amazon Music, and several other major streaming platforms, are highly suggestive of a previous relationship with Tristan and Andrew Tate, and to the extent they are, reveal her intentions to exact revenge on them. The lyrics exhibit a psychological case study of a serial predator, liar, and manipulator, who uses techniques such as gaslighting and devising false narratives, to frame her victims using sophisticated narratives:

¹⁰ See Shewale, Rohit, Spotify Stats 2023 — *Subscribers, Revenue & Other Insights* (Aug. 29, 2023), <https://www.demandsage.com/spotify-stats/>; Statista, *Number of Amazon Music listeners in the United States from 2017 to 2023* (last accessed Sept. 15, 2023), <https://www.statista.com/statistics/1037658/amazon-music-listeners-us/>.

¹¹ See, e.g., Dara Deville, Spotify, "Dream," (last accessed Sept. 15, 2023), https://open.spotify.com/track/3ZOVLIWyg3WP4EUZH1MqbV?si=Fa9_WGP_Qx629MHJoHMRlQ&utm_source=sms&utm_medium=sms&context=spotify%3Aartist%3A5VuyCKjWGrFaJ7a2xg0t17&nd=1&_branch_match_id=1231309313527834649&_branch_referrer=H4sIAAAAAAAAAA8soKSkottLXLy7IL8lMq9TLyczL1jf3y3csDCs3NnVOAgA1WtMRIAAAAA%3D%3D; Dara Deville, Apple Music, "Dream," (last accessed Sept. 15, 2023), <https://music.apple.com/us/artist/dara-deville/1633214316>; Dara Deville, Amazon Music, "Dream," (last accessed Sept. 15, 2023), <https://music.amazon.in/albums/B0B5XPZKHX>; and Dara Deville, iHeart Radio, "Dream," (last accessed Sept. 15, 2023), <https://www.iheart.com/artist/dara-deville-38381636/>.

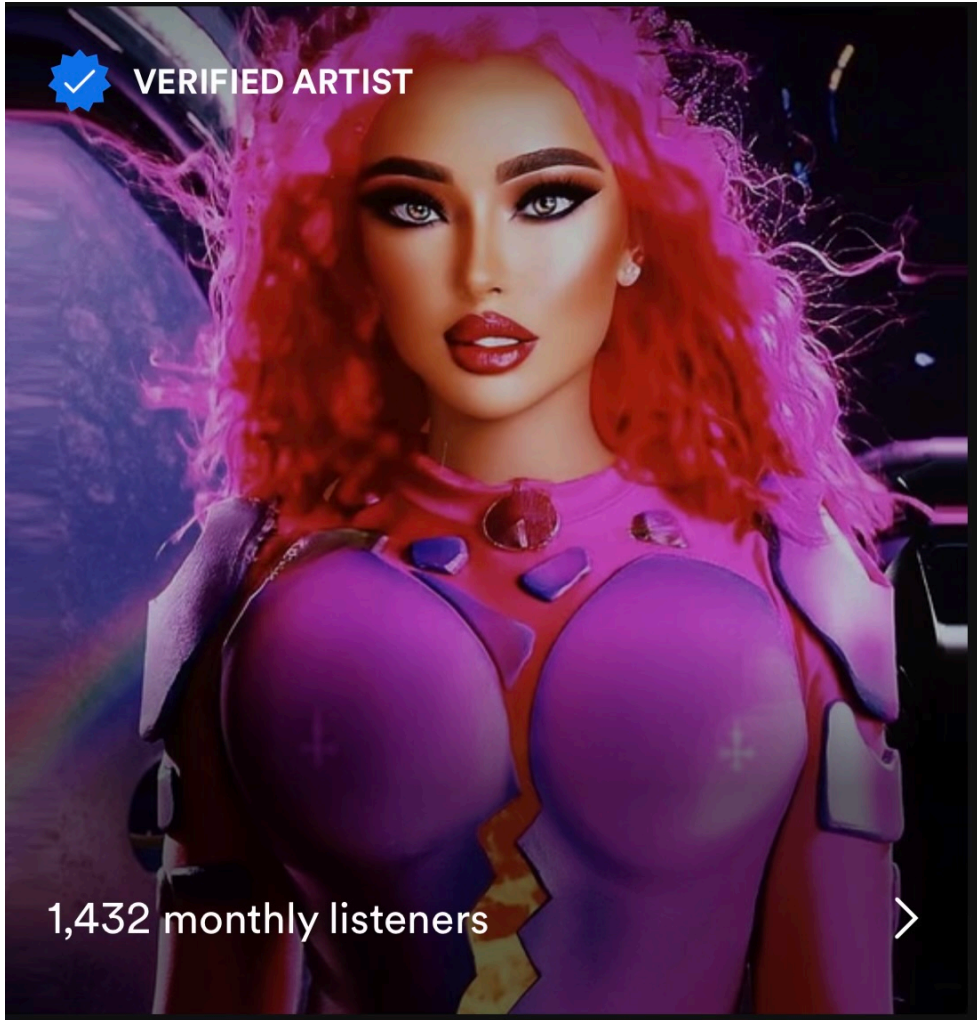
**Burn it down again
It's a bitter end
I thought we were friends
And I cannot pretend
To never make amends
I cannot save you
So I'll just betray you¹²**

It is reasonable to infer that these lyrics can be read as a confession. Plaintiffs submit that said lyrics should be read as a confession. The lyrics certainly align with Emma Gabbey's way of apologizing for past betrayals and the timeline of her rendezvous with Tristan Tate. These consistencies align with previous behavior documented in our Complaint, where Emma Gabbey explicitly admits to and apologized for being "a pathological liar." Compl. ¶ 46.

Importantly, in publishing this confessional song on numerous streaming platforms with hundreds of millions of monthly users, Emma Gabbey has become a public figure. One of the hallmarks of a public figure in today's social media-based age is a verified account, which presents a person to the world as legitimized public figure. Here is a picture of Emma Gabbey's verified public account from Spotify, under her stage name Dara Deville:¹³

¹² See Dara Deville, Dream Lyrics, Musixmatch.com (last accessed Sept. 15, 2023), <https://www.musixmatch.com/lyrics/Dara-Deville/Dream>.

¹³ See How to know if a public figure or brand on Facebook is authentic, Facebook (last accessed Sept. 15, 2023), <https://www.facebook.com/help/2470334116391218>.



As pointed out in our prior response, Amber Heard was deemed a public figure for publishing one op-ed in *The Washington Post*. Emma Gabbey has published songs and identified herself as a public figure across a multitude of platforms including, but not limited to: Spotify, Apple Music, IHeart Radio, YouTube, and Prime. Like Amber Heard, Emma Gabbey should be deemed a public figure.

Gabbey's defamatory songs and posts are also analogous to Amber Heard's defamatory op-ed, published in *The Washington Post*, in which Heard described herself as a "public figure representing domestic abuse," in a similar high-publicity divorce trial with

Johnny Depp.¹⁴ The combination of Emma Gabbey's songwriting and social media postings, which remain ongoing, and her counsel's organization's defamatory postings on social media and on the National Center on Sexual Exploitation website, in which they similarly characterized themselves as representative victims of sexual exploitation, is exactly akin to Amber Heard's conduct that made her a public figure.

Andrew and Tristan Tate have a right just like anyone else to defend their interests using whatever means are available to them under the law, and they should not be punished for vigorously doing so.

Celebrity, as is so readily on display by this ongoing litigation, necessarily invites far more opportunities to be attacked and defamed by bad-faith actors than any normal private individual would ever experience in a lifetime. Andrew and Tristan Tate, as acknowledged by the Defense, are among two of the most high-profile individuals on the internet. As such, they have a right to use their platforms to clear their good names of the lies and deceptions from the Defense and other bad-faith actors. Plaintiffs also have the right to strategize with their attorneys to generate positive support through the court of public opinion using favorable media channels like Tucker Carlson, Candace Owens, and others. This right is fundamental protected under the Constitution's First Amendment.

¹⁴ See Julia Jacobs and Adam Bednar, Johnny Depp Jury Finds That Amber Heard Defamed Him in Op-Ed, NY Times (June 1, 2022), <https://www.nytimes.com/2022/06/01/arts/depp-heard-trial.html#:~:text=1.3k-Johnny%20Depp%20Jury%20Finds%20That%20Amber%20Heard%20Defamed%20Him%20in,public%20figure%20representing%20domestic%20abuse.%E2%80%9D>.

However, it becomes even more important after having been targeted by a well-orchestrated campaign spearheaded by organizations such as Ms. Pinter's designed to victimize and silence our clients for months on end, at a time when our clients were imprisoned and had little to no opportunity to communicate with media and attorneys.

Now that the opportunity is available, the legal system should protect both Plaintiffs and their counsel. Not punish them for zealously exercising their fundamental rights.

/s/ Thomas Maniotis, Esq.

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CERTIFICATE OF GOOD FAITH CONFERRAL

Pursuant to Local Rule 7.1(a)(3)(A), I hereby certify that counsel for the movant has conferred with all parties affected by the relief sought in this motion in a good faith effort to resolve the issues but has been unable to resolve the issues.

/s/ Thomas Maniotis, Esq.

Thomas Maniotis, Esq.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on September 16th, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will, on the same day, electronically serve true and exact electronic copies on the persons below to their stated email addresses:

/s/ Thomas Maniotis, Esq.

Thomas Maniotis, Esq.